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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of Pacific Bell Petition for Rulemaking to Amend Section 69.106 of the Commission's Rules	)))))	RM No. 8496

OPPOSITION OF NATIONAL DATA CORPORATION

National Data Corporation ("National Data"), by its attorneys, hereby opposes the petition for rulemaking filed by Pacific Bell ("Pacific") on June 30, 1994.[1] In its petition, Pacific has requested a change in Section 69.106 of the Commission's rules relating to the local switching rate element. In particular, Pacific has requested the inclusion of a call set-up charge -- in addition to the current per minute usage charge -- in the switched access local switching rate. For the reasons set forth below, Pacific's petition should be summarily denied.

I. INTRODUCTION

National Data is an independent data processing company with headquarters in Atlanta, Georgia. From interconnected operating centers located throughout the United States, National Data provides customers with a wide variety of information services,

[1] See Petition for Rulemaking of Pacific Bell to Amend Section 69.106 of the Commission's Rules (filed June 30, 1994).

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including credit and debit card authorization, check verification, cash management, health care claims processing, and electronic funds transfer. These services involve calls of varying lengths, ranging from very short transactions to substantially longer calls. Users taking advantage of National Data's services place well over 80 million calls each month to National Data's multiple operating centers.

In providing its services to customers, National Data employs a variety of regulated telecommunications and unregulated enhanced service offerings, all of which are dependent on the Feature Group local access services provided by local exchange carriers ("LECs"). Among the interexchange services used by National Data are AT&T's 800 Validator Service for short duration calls and AT&T's Megacom 800 Service for long duration calls. National Data also uses AT&T's Transaction Services. As a major user of switched access-dependent interexchange services, National Data has a significant interest in whether the Commission initiates the rulemaking proceeding requested by Pacific.

II. PACIFIC HAS FAILED TO DEMONSTRATE THAT THE REQUESTED RULEMAKING PROCEEDING IS IN THE PUBLIC INTEREST.

In its petition, Pacific has requested a fundamental change in the current local access rate structure. More specifically, Pacific urges the Commission to include a per message call set-up charge in the local switching rate. In support of its request, Pacific argues that the current rate structure, which is based on a minute-of-use charge, is outdated and economically inefficient.

Pacific's petition is founded upon the unsubstantiated claim that a per-message call set-up charge is in the public interest. In particular, Pacific claims that "the current rate structure, mandating a minute of use rate, creates an uneconomic scheme, such that long calls subsidize short calls."[2] In this regard, Pacific asserts that

> the direct cost (plus overheads) to set up a call is $.01621. To keep the call in place costs $.00343 per minute. The local switching rate is $.009953 per minute. Calls less than 1 minute in duration, of which there are millions, do not begin to recover their costs.[3]

Pacific, however, fails to provide <u>any</u> data or cost support for <u>any</u> of these conclusory statements.

In the absence of more detailed information, there is no way of determining whether any of Pacific's assertions are close to being correct. Pacific has failed to provide any data regarding the number, growth or distribution (by time-of-day, length-of-haul or duration) of short duration calls. It has similarly failed to provide any of the data underlying its cost calculations. Nor has it explained whether any of these costs vary, depending upon technology used. There is thus no way of knowing whether Pacific has intentionally or unintentionally skewed its calculations or the presentation of the few facts it has identified to favor its proposal.

Pacific also claims, again without any supporting data, that it will suffer undue hardship if the Commission's access charge rules are not changed. In particular, Pacific asserts that it is being harmed by uneconomic bypass because "customers who purchase

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2 <u>Id</u>. at 1.

3 <u>Id</u>. at 6.

access for long duration calls are paying access charges far in excess of the costs they have caused."[4] Pacific, however, admits that it "cannot say with certainty the number of customer[s] who have moved off the public switched network as a result of high local switching costs."[5]

Like Pacific's claims about the costs of short duration calls, its assertions about bypass are not supported by any verifiable data. Pacific has not shown that it is in fact suffering from any uneconomic bypass. More important, it has not shown that any such bypass is being caused by the pricing of short duration calls, rather than other pricing anomalies inherent in the Commission's access charge rules. In short, its claims about bypass are nothing more than unsupported conjecture.

Given Pacific's failure to justify its request for relief, the Commission should decline Pacific's invitation to initiate a rulemaking proceeding -- and commit limited Commission resources -- to consider call set-up charges. But even if Pacific had substantiated its claims, the experience of one LEC operating in one state is hardly sufficient to justify a rulemaking proceeding to consider a universally applicable call set-up charge. Thus, Pacific having failed to demonstrate that its requested rulemaking proceeding is in the public interest, the Commission should deny Pacific's petition.

The need for the Commission to proceed with caution is great, given the devastating impact which the charge proposed by Pacific would have upon users with short duration calls. Even companies with a broad mix of traffic would experience a

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[4] Id. at 8-9.

[5] Id. at 9.

dramatic increase in their communications costs if a call set-up charge were imposed. By way of example, a user that completes (or receives) three to four calls a minute, and pays approximately 7 to 10 cents a minute for service, would face increased communications costs of 45 to 85 percent for this traffic if the $0.01621 call set-up charge suggested by Pacific were ultimately adopted by the Commission.

Needless to say, such increases would have a particularly adverse impact upon the transaction processing industry. As the Commission is well aware, transaction processors provide American businesses and consumers with easy-to-use ways of meeting their needs. The availability and use of transaction processing services have thus increased the efficiency of American businesses and spurred economic growth. The quality and cost of health care services has particularly benefited from transaction processing services. Pacific's proposed call set-up charge would stifle the demand for these services. Given the deleterious impact of such a charge on the users of these services and the absence of any concrete data or cost support for Pacific's claims, the Commission should deny Pacific's petition for rulemaking.

III. CONCLUSION

For all of the reasons set forth above, the Commission should summarily deny Pacific's petition for rulemaking.

Respectfully submitted,

NATIONAL DATA CORPORATION

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August 22, 1994

CERTIFICATE OF SERVICE

I, Anne Fitzgerald, hereby certify that copies of the foregoing Opposition of National Data Corporation, were served by First-Class United States mail, postage prepaid upon Pacific Bell this 22nd day of August, 1994.

Anne Fitzgerald

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